

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:96 CR 403-2
)	
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
-vs-)	
)	<u>MEMORANDUM OPINION</u>
RICHARD STONE,)	<u>AND ORDER</u>
)	
Defendant.)	

This case is before the Court on Defendant, Richard Stone's Motion for Modification or Reduction of Sentence pursuant to 28 U.S.C. § 2255. (ECF # 518). Mr. Hill previously filed a § 2255 motion to vacate, January 9, 2007, which was denied. (ECF #436; Case No. 16 CV 128, ECF #18, 19). On March 1, 2013, he filed a second motion under § 2255, which was transferred to the Court of Appeals for certification. (ECF #489). The Court of Appeals denied the request for certification on November 7, 2013. (United State Court of Appeals for the Sixth Circuit, Case No. 13-3378, ECF #30). This is now his third motion to vacate his sentence under § 2255.

Section 2255 provides that:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain —

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

See 28 U.S.C. § 2255(h).

Because Mr. Stone has failed to receive authorization from the Sixth Circuit to file this successive § 2255 motion, the motion may not be reviewed by the Court at this juncture.

Therefore, the Clerk of Court is directed to transfer Mr. Hill's instant motion to the Sixth Circuit Court of Appeals pursuant to *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

IT IS SO ORDERED.

/s/ Donald C. Nugent
Donald C. Nugent
United States District Judge

Date: February 26, 2018